

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

762I0723

SENATE BILL NO. 200

Introduced by: Senator Knudson and Representative Cutler

1 FOR AN ACT ENTITLED, An Act to revise the definition of a controlled group.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 10-45-20.3 be amended to read as follows:

4 10-45-20.3. For the purposes of this chapter, a controlled group ~~consists of any corporations~~
5 ~~or other entities eligible to file a consolidated federal income tax return under the Internal~~
6 ~~Revenue Code as in effect on January 1, 2002, or entitled to only a single surtax exemption for~~
7 ~~federal corporate income tax purposes under the Internal Revenue Code as in effect on~~
8 ~~January 1, 2002, and includes a controlled group of corporations as defined at 26 U.S.C. § 1563~~
9 ~~as in effect on January 1, 2002. A controlled group also consists of any subchapter S~~
10 ~~corporation, limited liability company, limited liability partnership, general partnership, or limited~~
11 ~~partnership with at least eighty percent common ownership as if the entity was converted to or~~
12 ~~taxed as a subchapter C corporation under the Internal Revenue Code as in effect on January 1,~~
13 ~~2002 is:~~

14 (1) One or more sole proprietorships, corporations, subchapter S-corporations, limited
15 liability companies, limited liability partnerships, general partnerships, or limited
16 partnerships connected through ownership with a common parent sole proprietorship.



1 corporation, subchapter S-corporation, limited liability company, limited liability
2 partnership, general partnership, or limited partnership, if:

3 (a) At least eighty percent of the total combined voting power of the owners
4 entitled to vote or at least eighty percent of the total value of the sole
5 proprietorships, corporations, subchapter S-corporations, limited liability
6 companies, limited liability partnerships, general partnerships, or limited
7 partnerships, except the common parent, is owned by one or more of the other
8 sole proprietorships, corporation, subchapter S-corporations, limited liability
9 companies, limited liability partnerships, general partnerships, or limited
10 partnerships; and

11 (b) The common parent owns at least eighty percent of the total combined voting
12 power of all sole proprietorships, corporations, subchapter S-corporations,
13 limited liability companies, limited liability partnerships, general partnerships,
14 or limited partnerships entitled to vote or at least eighty percent of the total
15 value of at least one of the other sole proprietorships, corporation, subchapter
16 S-corporations, limited liability companies, limited liability partnerships, general
17 partnerships, or limited partnerships; or

18 (2) Two or more sole proprietorships, corporations, subchapter S-corporations, limited
19 liability companies, limited liability partnerships, general partnerships, or limited
20 partnerships if five or fewer persons who are individuals, estates, or trusts own:

21 (a) At least eighty percent of the total combined voting power or at least eighty
22 percent of the total value of each sole proprietorship, corporation, subchapter
23 S-corporation, limited liability company, limited liability partnership, general
24 partnership, or limited partnership, and

1 (b) More than fifty percent of the total combined voting power or more than fifty
2 percent of the total value of each sole proprietorship, corporation, subchapter
3 S-corporation, limited liability company, limited liability partnership, general
4 partnership, or limited partnership is identical with respect to each such sole
5 proprietorship, corporation, subchapter S-corporation, limited liability
6 company, limited liability partnership, general partnership, or limited
7 partnership.

8 For purposes of subdivision (2), a controlled group shall also include the five or fewer
9 persons who are individuals, estates, or trusts if each are members of the same family. The family
10 of an individual includes only brothers and sisters, whether by whole or half blood, spouses,
11 ancestors, and lineal descendants.